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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,224	04/16/2004	Steve Davis	5145.21	1172

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EXAMINER


OKEZIE, ESTHER O

ART UNIT PAPER NUMBER

3654

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b> 10/826,224	<b>Applicant(s)</b> DAVIS, STEVE	
	<b>Examiner</b> Esther O. Okezie	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-35 is/are allowed.
- 6) ☒ Claim(s) 1-7, 15 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 8-14 and 16-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/06/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation of "...extending from the lower edge of the main plate a predetermined distance toward the upper edge thereof..." is unclear. The predetermined distance has not been determined or given.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 15, 24, 25, 27, 28, 31, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Link.
2. Re claim 1, Link discloses clamping plates comprising: a main plate (78) having front, rear, upper, and lower edges; an auxiliary plate (70 and 80) overlying the main plate member and extending from the lower edge of the main plate member

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substantially toward the upper edge of the main plate, and extending substantially from the rear edge of the main plate member to the front edge thereof, with the auxiliary plate removably attached to the main plate by bolts (86); and a yieldable friction material (140) over substantially the major portions of the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate.

3. Re claim 2 and 3, Link discloses the yieldable friction material as rubber a resilient compressible material (column 5, lines 1-5).

4. Re claim 4, Link discloses the yieldable friction material is bonded to the auxiliary plate and the portion of the main plate not covered by the auxiliary plate (column 5, lines 1-5).

5. Re claim 15, Link discloses the auxiliary plate with a front edge and rear edge, with the rear edge substantially terminating in the same plane as the rear edge of the main plate and the front edge of the auxiliary plate terminating a short distance from the front edge of the main plate (fig 3), and further including a wear resistant nose piece with tapered edges attached to the main plate between the front edge thereof and the front edge of the auxiliary plate.

6. Re claim 24, Link discloses the yieldable friction material bonded to the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate (fig 3).

7. Re claim 25, Link discloses recessed bolts (36) for removably attaching the auxiliary plate to the main plate (figures 2-4).

8. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Carson.

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9. Re claim 1, Carson discloses clamping plates comprising: a main plate (35) having front, rear, upper, and lower edges; an auxiliary plate (28) overlying the main plate member and extending from the lower edge of the main plate member substantially toward the upper edge of the main plate, and extending substantially from the rear edge of the main plate member to the front edge thereof, with the auxiliary plate removably attached to the main plate by connector (36); and a yieldable friction material (29) over substantially the major portions of the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate.

10. Re claim 2 and 3, Carson discloses the yieldable friction material as rubber a resilient compressible material (column 5, lines 5-10).

11. Re claim 4, Carson discloses the yieldable friction material is bonded to the auxiliary plate and the portion of the main plate not covered by the auxiliary plate (column 5, lines 5-10).

12. Re claim 5, Carson discloses the yieldable friction material is a rubber material having a plurality of closed spaced grooves (31) in it extending parallel to one another between the front and lower edges of the main plate member and substantially parallel to the upper and lower edges of the main plate (fig. 9).

13. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ehmann.

14. Re claim 1, Ehmann discloses clamping plates comprising: a main plate (31b) having front, rear, upper, and lower edges; an auxiliary plate (80) overlying the main plate member and extending from the lower edge of the main plate member

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substantially toward the upper edge of the main plate, and extending substantially from the rear edge of the main plate member to the front edge thereof, with the auxiliary plate removably attached to the main plate by connector (76); and a yieldable friction material (77) over substantially the major portions of the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate.

15. Re claim 2 and 3, Ehmann discloses the yieldable friction material as rubber a resilient compressible material (column 8, lines 23-26).

16. Re claim 4, Ehmann discloses the yieldable friction material is bonded to the auxiliary plate and the portion of the main plate not covered by the auxiliary plate (column 8, lines 23-26).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carson. Carson discloses closed space grooves parallel to the lower and upper edges of the main plate. Carson does not disclose the thickness of the grooves or the thickness of in between the grooves. Carson does disclose that the tubular frame members (50) of an ordinary sized container (fig. 4). It would have been obvious to one of ordinary skill in the art to provide grooves that have at least 1 ¼ inches in between them in order to

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frictional engage the surface of an object to be lifted without too great of slippage in holding the object by friction.

18. Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carson in view of Jordan. Carson does not mention the material that both the main and auxiliary plates are manufactured from. Jordan discloses a clamping device wherein the main plate (40) and the auxiliary plate (46) are manufactured from aluminum. It would have been obvious to one of ordinary skill in the art to manufacture the plates of Carson with aluminum because "aluminum has the advantage of low weight, and minimum thickness thereby permitting the attachment to be used in areas of small clearance or spacing between load stacks" as taught by Jordan (column 2, lines 50-55).

***Allowable Subject Matter***

Claims 8-14 and 16-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 27-35 are allowed.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US-3145866, US-3400965.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO



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